

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

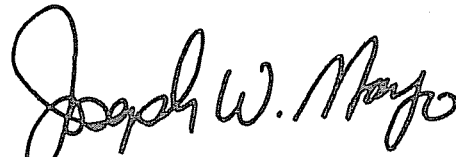
No. 2006

H.P. 1480

House of Representatives, April 7, 1994

An Act to Establish Procedures for Secession and Annexation.

Reported by Representative JOSEPH for the Joint Standing Committee on State and Local Government pursuant to Joint Order H.P. 1475.


JOSEPH W. MAYO, Clerk

2 **§2163. Initial secession meeting**

4 The municipal officers shall call and hold a special
6 meeting, in the manner provided for the calling and holding of
 town meetings to discuss secession, which must be conducted in
 accordance with the following:

8 1. Meeting advertised. The municipal officers shall
10 publish notice of the meeting in a newspaper of general
12 circulation in the area. One notice must be published as close
14 to the 14th day before the meeting as possible and the 2nd notice
 must be published as close to the 7th day before the meeting as
 possible;

16 2. Secession meeting. The meeting must include a formal
18 presentation by those initiating the petition and must include
 the reasons for secession; and

20 3. Nonresidents eligible to participate. Nonresidents may
22 participate in the meeting at the discretion of the moderator.

24 **§2164. Petition for continuation of procedure**

26 After 30 days from the initial meeting, the secession
28 procedure may continue. The proceeding must be initiated by
30 submitting to the municipality within 7 months following the
32 initial petition meeting, a petition of the registered voters
34 within the proposed secession territory, requesting the creation
36 of a local secession committee. The petition must include 50% of
38 registered voters for a secession territory with a population of
40 500 or less, 35% of registered voters in a secession territory
 with a population of 501 to 1500 and 25% of registered voters in
 a secession territory with a population greater than 1500. The
 population is determined at the initiation of the petition
 process according to the last Decennial Census. The number of
 registered voters is determined by the registrar in accordance
 with Title 21-A, chapter 3, subchapter IV. The petition must set
 forth a physical description of the proposed secession territory
 as well as a summary of the reasons for secession.

42 **§2165. Creation of local secession committee**

44 If the required number of voters sign a petition, a local
46 secession committee must be created to develop the secession
48 procedure. The local secession committee consists of the
50 following 7 members: 3 representatives of the municipality that
 the secession territory is proposing to secede from, elected by
 the municipal officers; 3 representatives of the secession
 territory chosen by the representatives established in section

2162; and one representative selected jointly by the selected
municipal representatives and the selected secession
representatives, who serves as chair of the proceedings.

§2166. Local secession committee procedure

The local secession committee, with the assistance of the
Commission on Secession, shall develop a secession procedure
that, at a minimum, consists of the following components.

1. Effective date. The secession procedure must establish
a date on which secession will be effective.

2. Provision of educational services. The secession
procedure must include a plan for the provision of educational
services, including school transportation services for all
students in the proposed secession territory.

3. Distribution of tangible assets and liabilities. The
secession procedure must require that the proposed secession
territory assume its just and due proportion of the debts of the
municipality and receive its just and due proportion of the
assets of the municipality.

4. Information about municipality. The local secession
procedure must include, at a minimum, the following information:

**A. Present population, past population growth and projected
population for the secession territory;**

**B. Quantity of land within the secession territory proposed
for incorporation; the natural terrain of the area including
general topography, major watersheds, soil conditions; and
such natural features as rivers and lakes;**

**C. Present pattern of physical development in the secession
territory including residential, industrial, commercial,
agricultural and institutional land uses; and the present
transportation network and potential transportation issues,
including proposed highway development;**

**D. Land use controls and planning presently being utilized
in the secession territory, including comprehensive plans
for development in the secession territory;**

**E. Present governmental services being provided to the
area, including water and sewer service, fire protection,
police protection, street improvements and maintenance,
administrative services and recreational facilities;**

2 F. Existing or potential problems of environmental
3 pollution and the need for additional services to resolve
4 these problems;

5 G. Fiscal data of the secession territory, including the
6 net tax capacity of the proposed secession territory and the
7 impact on the municipality from which the territory proposes
8 to secede; the present bonded indebtedness; and the local
9 tax rates of the county, school district and municipality;

10 H. Effect of the proposed incorporation on communities
11 adjacent to the secession territory and on school districts
12 within and adjacent to the secession territory; and

13 I. Adequacy of town government to deliver services to the
14 secession territory.

15 In developing the secession procedure, the local secession
16 committee shall work closely with the Commission on Secession.
17 The local secession committee shall submit the proposed secession
18 procedure to the Commission on Secession for review.

19 **§2167. Commission on Secession**

20 The Commission on Secession, as established in Title 5,
21 section 12004-L, subsection 11, and referred to in this
22 subchapter as the "commission," shall assist local secession
23 committees in formulating secession procedures. In addition, the
24 commission shall review these secession procedures as provided in
25 this subchapter.

26 **1. Membership.** The commission consists of the following 5
27 members:

28 A. The Commissioner of Education or the commissioner's
29 designee;

30 B. The State Auditor or the auditor's designee;

31 C. The State Tax Assessor or the assessor's designee;

32 D. The Commissioner of Environmental Protection or
33 commissioner's designee; and

34 E. A commissioner from the Public Utilities Commission or a
35 commissioner's designee.

36 **2. Responsibilities.** The commission shall:

2 A. Assist municipalities in preparing the secession
procedures as required in section 2166;

4 B. Review each secession procedure and provide comments and
suggestions with respect to the procedure;

6 C. Recommend alternatives to secession if the commission
finds that feasible alternatives exist; and

10 D. Within 30 days after receiving the proposed secession
procedure, provide copies of its review and comments on the
secession procedure to the municipal officers, the local
secession committee and to the Executive Director of the
Legislative Council, who shall provide it to the joint
standing committee of the Legislature having jurisdiction
over local government matters.

18 3. Chair. The commission members shall annually elect a
chair from among its members.

20 **§2168. Arbitration**

22 If the local secession committee does not reach consensus,
it shall submit any matters remaining in dispute to a panel of
arbitrators and shall reduce to writing all agreed-upon matters.
The panel of arbitrators consists of one arbitrator selected by
the municipality, one arbitrator selected by the secession group
and one neutral arbitrator selected jointly by the 2 other
arbitrators. The local secession committee shall pay its chosen
arbitrator, the municipality shall pay its chosen arbitrator and
the municipality and the local secession committee shall each pay
half of the cost of the neutral arbitrator. Determination of
disputed matters by the panel of arbitrators is final and binding
on the parties. The arbitration must be administered under the
auspices of the American Arbitration Association and, except for
the selection of arbitrators, is governed by the commercial rules
and procedures of the American Arbitration Association, and the
concept of "last best offer" must be used. These issues must be
resolved no later than 90 days before a referendum.

40 **§2169. Secession final report**

42 The local secession committee may incorporate the comments
and suggestions received from the commission into the secession
procedure. In its report the local secession committee shall
note those areas in which it did not incorporate the comments or
suggestions of the commission along with a rationale for not
doing so. The local secession committee shall immediately notify
the municipal officers when the secession procedure has been
completed and shall provide a copy of the final report to the

2 Executive Director of the Legislative Council, who shall provide
3 it to the joint standing committee of the Legislature having
4 jurisdiction over local government matters.

6 **§2170. Final approval by the voters**

8 The question concerning secession must be presented to the
9 voters of the secession territory in the next general election to
10 be held in November. The election must be conducted according to
11 the following procedures.

12 **1. Question posed to voters.** The municipal clerk shall
13 prepare the ballots on which the following question must appear:

14 "Do you favor the separation of (name of secession
15 territory) from (name of municipality) and its incorporation
16 as a separate town?"

18 **2. Requirements for approval.** The voters shall indicate
19 their opinion on this question by a cross or check mark placed
20 against the word "Yes" or "No." Before becoming effective, the
21 secession must be approved by at least 2/3 of the voters.

24 **3. Declaration of results.** The municipal officers shall
25 declare the result of the vote. The municipal clerk or the
26 assessor of the plantation shall file a certificate of the
27 election result with the Secretary of State within 10 days of the
28 election.

30 **§2171. Advisory referendum**

32 The municipality from which the secession has been proposed
33 may conduct an advisory referendum on the question of secession
34 in the same manner as in section 2170.

36 **§2172. Approval by the Legislature**

38 Any municipality that has approved a secession procedure
39 under this subchapter shall request before the effective date of
40 secession approval by the Legislature in order for the secession
41 to become effective.

42 **§2173. Concurrent secession and annexation**

44 Property of one municipality that abuts another may
45 concurrently secede and be annexed in accordance with this
46 subchapter, except that the following also applies.

48 **1. Petition.** An area proposing to concurrently secede and
49 be annexed must indicate on the petition in section 2164 the
50 community to which it wishes to be annexed.

2 2. Inclusion in secession procedure. A petition for
3 concurrent secession and annexation under this section must be
4 included in any information required by sections 2166 and 2167.

6 3. Approval by voters; secession territory. The question
7 concerning concurrent secession and annexation must be presented
8 to the voters of the secession territory in place of the question
9 set out in section 2170 for the proposed secession territory in
10 the following manner.

12 A. The municipal clerk shall prepare the ballots on which
13 the following question must appear:

14 "Do you favor the separation of (name of secession
15 territory), which now lies within (name of
16 municipality), to become incorporated into the (name of
17 municipality) ?"

18 B. The voters shall indicate their opinion on this question
19 by a cross or check mark placed against the word "Yes" or
20 "No." Before becoming effective, the secession and
21 annexation must be approved by 2/3 of the voters.

22 C. The municipal officers shall declare the result of the
23 vote. The municipal clerk shall file a certificate of the
24 election result with the Secretary of State within 10 days
25 of the election.

26 4. Approval by voters; municipality. The question
27 concerning concurrent secession and annexation must be presented
28 to the voters of the municipality to which the secession
29 territory proposes to be annexed in the following manner.

30 A. The municipal clerk shall prepare the ballots on which
31 the following question must appear:

32 "Do you favor the acceptance of (name of secession
33 territory), which now lies within (name of
34 municipality), to become incorporated into the (name of
35 municipality) ?"

36 B. The voters shall indicate their opinion on this question
37 by a cross or check mark placed against the word "Yes" or
38 "No." Before becoming effective, the secession must be
39 approved by a majority of the voters.

40 C. The municipal officers shall declare the result of the
41 vote. The municipal clerk shall file a certificate of the
42 election result with the Secretary of State within 10 days
43 of the election.

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FISCAL NOTE

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This bill requires municipalities to employ certain procedures in the event of the initiation of secession by a territory within the municipality. The additional costs of this state mandate will depend on the number of secessions and annexations initiated under the procedures of this bill, which can not be estimated at this time. Pursuant to the mandate preamble, the 2/3 vote of all members elected to each House exempts the State from the constitutional requirement to fund 90% of the additional local costs.

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STATEMENT OF FACT

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This bill establishes standards and procedures for secession and annexation.